

Jonathan O. Peña, Esq.
CA Bar ID No.: 278044
Peña & Bromberg, PLC
2440 Tulare St., Ste. 320
Fresno, CA 93721
Telephone: 559-439-9700
Facsimile: 559-439-9723
Email: info@jonathanpena.com
Attorney for Plaintiff, Mai Yang

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

MAI YANG,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,

Defendant.

Case No. 1:21-cv-00755-BAM

**STIPULATION FOR THE AWARD
AND PAYMENT OF ATTORNEY
FEES AND EXPENSES PURSUANT
TO THE EQUAL ACCESS TO
JUSTICE ACT; ~~PROPOSED~~ ORDER**

(Doc. 18)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of EIGHT HUNDRED FIFTY DOLLARS AND 64/100 (\$850.64) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d).. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to

1 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
2 to honor the assignment will depend on whether the fees are subject to any offset
3 allowed under the United States Department of the Treasury's Offset Program. After
4 the order for EAJA fees is entered, the government will determine whether they are
5 subject to any offset.

6 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
7 determines that Plaintiff does not owe a federal debt, then the government shall cause
8 the payment of fees, expenses and costs to be made directly to Counsel, pursuant to
9 the assignment executed by Plaintiff. Any payments made shall be delivered to
10 Plaintiff's counsel, Jonathan O. Peña.

11 This stipulation constitutes a compromise settlement of Plaintiff's request for
12 EAJA attorney fees, and does not constitute an admission of liability on the part of
13 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
14 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
15 Counsel including Counsel's firm may have relating to EAJA attorney fees in
16 connection with this action.

17 This award is without prejudice to the rights of Counsel and/or Counsel's firm
18 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the
19 savings clause provisions of the EAJA.

20 Respectfully submitted,

21
22 Dated: August 25, 2022

/s/ Jonathan O. Peña

23 JONATHAN O. PEÑA
24 Attorney for Plaintiff

25 Dated: August 25, 2022

26 PHILLIP A. TALBERT
27 United States Attorney
28 PETER K. THOMPSON
Acting Regional Chief Counsel, Region IX

Social Security Administration

By: * Oscar Gonzalez de Llano

Oscar Gonzalez de Llano

Special Assistant U.S. Attorney

Attorneys for Defendant

(*Permission to use electronic signature
obtained via email on August 24, 2022).

ORDER

Based upon the parties' Stipulation for the Award and Payment of Attorney Fees and Expenses Pursuant to the Equal Access to Justice Act (the "Stipulation"),

IT IS ORDERED that fees and expenses in the amount of EIGHT HUNDRED FIFTY DOLLARS AND 64/100 (\$850.64) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of the Stipulation.

The Clerk of the Court is directed to administratively terminate the Motion for Attorney's Fees Pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, filed on August 24, 2022 (Doc. 17).

IT IS SO ORDERED.

Dated: August 29, 2022

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE